

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE COMPANY,	)	CIVIL ACTION
	)	NO. 96-10804-DPW
	)	NO. 1:04-CV-10655-DPW
Plaintiff,	)	(Boarhead Farm)
	)	NO. 1:04-CV-10968-DPW
v.	)	(Uniontown Landfill)
	)	
THE BLACK & DECKER CORPORATION,	)	
BLACK & DECKER, INC., BLACK & DECKER	)	
(U.S.) INC., EMHART CORPORATION, and	)	
EMHART INDUSTRIES, INC.,	)	
	)	
Defendants.	)	

**AFFIDAVIT OF JAMES J. NICKLAUS IN SUPPORT OF  
BLACK & DECKER'S MOTION FOR SUMMARY JUDGMENT  
REGARDING THE BOARHEAD FARM AND UNIONTOWN LANDFILL SITES**

James J. Nicklaus deposes and says:

1. I am a member of the bar of this Commonwealth and am an attorney with Willcox, Pirozzolo & McCarthy, Professional Corporation, counsel for The Black & Decker Corporation, et als., in this action.

2. Exhibit A to the Appendix to Black & Decker's Memorandum in Support of its Motion for Summary Judgment Regarding the Boarhead Farm and Uniontown Landfill Sites, filed herewith ("Appendix"), is a copy of the Amended Complaint in Boarhead Farm Agreement Group v. Advanced Environmental Technology Corp., et al., United States District Court for the Eastern District of Pennsylvania, Case No.02-3830.

3. Exhibit B to the Appendix is a copy of a letter dated October 16, 2002 from Richard L. Binder of Willcox, Pirozzolo & McCarthy to Denise M. Szuniewicz of Liberty Mutual Insurance Company, with an attachment.

4. Exhibit C to the Appendix is a copy of a letter dated December 4, 2002 from Kim A. Olson of Liberty Mutual Insurance Company to Richard L. Binder of Willcox, Pirozzolo & McCarthy.

5. Exhibit D to the Appendix is a copy of a letter dated August 30, 2004 from Kim A. Olson of Liberty Mutual Insurance Company to Jack R. Pirozzolo of Willcox, Pirozzolo & McCarthy.

6. Exhibit E to the Appendix is a copy of a schedule entitled "Boarhead Farm Unreimbursed Defense Costs." I prepared this schedule by compiling all of the invoices for Black & Decker's defense costs relating to Boarhead Farm which have not been reimbursed (in whole or in part) by Liberty Mutual. Copies of those invoices were provided to Liberty Mutual prior to or in the course of this action.

7. Exhibit F to the Appendix is a copy of the complaint in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS.

8. Exhibit G to the Appendix is a copy of the Third Party Complaint in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS.

9. Exhibit H to the Appendix is a copy of a Notice of Lawsuit and Request for Wavier of Service of Summons to USM Corporation dated April 30, 1997, with attachments, concerning the Third Party Complaint in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS.

10. Exhibit I to the Appendix is a copy of the Amended Third Party Complaint in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS.

11. Exhibit J to the Appendix is a copy of the Supplemental Expert Report of Jerome C. Muys, Jr. dated September 29, 2004 in this action.

12. Exhibit K to the Appendix is a copy of the Amended Fourth Party Complaint in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS.

13. Exhibit L to the Appendix is a copy of a Joint Stay Stipulation entered in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS, on or about March 31, 1998.

14. Exhibit M to the Appendix is a copy of a Order entered in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS, on or about December 23, 1998.

15. Exhibit N to the Appendix is a copy of an Order on Motion to Continue Stay entered in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS, on or about May 30, 2002.

16. Exhibit O to the Appendix is a copy of an Order on Petition to Lift Stay entered in Rumpke of Indiana, Inc. v. Cummins Engine Co., et al., United States District Court for the Southern District of Indiana, Case No. IP 94-1636-C-MS, on or about July 22, 2003.

17. Exhibit P to the Appendix is a copy of a letter dated October 16, 2002 from Richard L. Binder of Willcox, Pirozzolo & McCarthy to Denise M. Szuniewicz of Liberty Mutual Insurance Company, with an attachment.

18. Exhibit Q to the Appendix is a copy of a letter dated February 5, 2003 from Denise M. Szuniewicz of Liberty Mutual Insurance Company to Richard L. Binder of Willcox, Pirozzolo & McCarthy.

19. Exhibit R to the Appendix is a copy of a letter dated July 21, 2003 from Jack R. Pirozzolo of Willcox, Pirozzolo & McCarthy to Denise M. Szuniewicz of Liberty Mutual Insurance Company.

20. Exhibit S to the Appendix is a copy of a letter dated March 18, 2004 from David A. Landry of Liberty Mutual Insurance Company to Jack R. Pirozzolo of Willcox, Pirozzolo & McCarthy.

21. Exhibit T to the Appendix is a copy of a letter dated August 20, 2004 from Kim A. Olson of Liberty Mutual Insurance Company to Jack R. Pirozzolo of Willcox, Pirozzolo & McCarthy.

22. Exhibit U to the Appendix is a copy of a schedule entitled "Uniontown Landfill Unreimbursed Defense Costs." I prepared this schedule by compiling all of the invoices for Black & Decker's defense costs relating to Boarhead Farm which have not been reimbursed by Liberty Mutual. Copies of those invoices were provided to Liberty Mutual prior to or in the course of this action.

23. Documents contained in the Appendix do not always contain the enclosures referred to in the document.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 10, 2004.

/s/ James J. Nicklaus  
James J. Nicklaus